

State of Utah
Title and Escrow Commission Meeting
Meeting Information

Date: January 12, 2009

Time: 9:30am

Place: Copper Room
East Building, Main Floor

Members

(Attendees = x)

Commission Members

xChair, Canyon W. Anderson, <i>Davis Cnty</i>	xDavid M. Lattin, <i>Salt Lake Cnty</i>
xGlen W. Roberts, <i>Utah Cnty</i>	xGarry M. Goodsell, <i>Iron Cnty</i>
xJerry M. Houghton, <i>Tooele Cnty</i>	

Department Staff

xJohn E. "Mickey" Braun, Jr. <i>Ass't Commissioner</i>	xPerri Babalis <i>AG Legal Counsel</i>	Mark Kleinfeld <i>Admin. Law Judge</i>	xTammy Greening <i>MC Examiner</i>
xSuzette Green-Wright <i>MC Director</i>	Sheila Curtis <i>MC Examiner</i>	xSandra Halladay <i>MC Examiner</i>	xJilene Whitby <i>PIO/Recorder</i>

Public

James Seaman	Brett E. Simpson	Cory Clayson	Walt Vandenberg
Lincoln Scoffield	David Moore	Clayton Hansen	Angie McKinnon
Jeff Jensen	Al Newman	Pete Stevens	Matt Pettey
Sandra Halladay			

MINUTES

Executive Session - 9:55am (Closed to the Public)

General Session – approx. 10:10am (Open to the Public)

- **Welcome and Introductions** / Canyon Anderson, Chair
Canyon announced the date, time and place of next month's meeting. See below.
- **Adopt Minutes of Previous Meeting**
Garry suggested deleting the time in the "Welcome and Introduction" bullet of the first page. It is the wrong time. He then moved to accept the minutes with that change, Glen seconded it and the vote was unanimous.
- **Concur with Licensee Report**
 - Garry moved to approve the report and Dave seconded it. The vote was unanimous.
 - Can the Total Number of the Title Licensees be shown? Mickey said it would create extra work. Garry said it was just informational and not necessary.
 - Does an Agency that Changes its Name Need to Re-Apply? Mickey said they did if they changed their FEIN. If not the department needs to be notified of the change within 30 days of the change. Pete asked what the process would be if there was a change in ownership? Mickey said that if it was an insurer then a Form-A filing needs to be made and a hearing held. If ownership of an agency changes they must reapply only if the FEIN changes. Pete thought this was a flaw in the system. Canyon suggested discussing it at a later date in regards to a rule change. Canyon asked Pete to suggest the topic for the agenda. Jerry asked how the department knew if a licensee worked for one or multiple companies. Mickey said that when you bring up an individual's name in "Company Search" on the web it will show who they are designated with.
- **Number of Cases Open & Closed**

- Canyon asked how the department closed so many cases last month. Mickey said that if a case was over 180 days old and the department was unable to obtain concrete evidence, the case was closed. Suzette said a case would remain open if there was justification for doing so. David asked if the closed cases had been sufficiently investigated. Suzette said they had.
- Suzette noted that an Ecase is the enforcement side of an investigation.
- **Administrative Proceedings Action**
 - Stipulation and Order - None
 - Request for Hearing - None
- **Old Business**
 - **Title Trust Accounts Rule R592-12 (R590-212)** / Mickey

No updates had been done on this rule yet. Mickey is still doing research regarding sweep accounts and when they lose their trust status. Canyon noted that some agencies collect interest and send it to charitable organizations. This would only be a problem if an attorney did it.
 - **Review changes to R592-10 (R590-187), R592-11 (R590-136)** / Mickey

Revisions were made to these rules and presented to the Commission.
R592-10 was discussed first.

 - Glen suggested putting a period after “public” in the definition of "office." Mickey suggested additional wording. The Commission and Al Newman approved the changes.
 - Glen noted that the reference in R592-10-6(1) should be R592-10-5.
 - Glen made a motion that R592-10 be approved with these changes then put it into the rulemaking process. Jerry seconded the motion and the vote was unanimous.
 Discussion of R592-11.

 - Pete suggested adding the requirement for agencies to note on the annual report when there is a change in ownership. Dave noted that this information is also requested on the Controlled Business Report.
 - Glen and Canyon decided to eliminate the wording in Subsection R592-11-5(2) after "Subsection 31A-23a-503(8)(a)."
 - Perri made a number of technical changes.
 - Mickey suggested naming the reports referred to in Subsections R592-11-6(1), (2) and (3).
 - Glen made the motion to approve rule R592-11 with the changes made in the meeting then file it for comment. Jerry seconded the motion and the vote was unanimous.
 - **Is the Escrow Cost Analysis Report needed?**
 - **Review Lot Reservation Bulletin** / Mickey
 - Suzette provided a draft of the bulletin to the Commission. Glen read it aloud.
 - Glen thought the bulletin should provide direction as to how lot reservations should be done. It was his understanding that one did not have to open a separate escrow account for each lot reservation. It is up to each agency to give each lot some type of identifier like a name or number. The bulletin would provide wording to be used in lot reservation closings. The last sentence of the bulletin needs to be kept.
 - Al asked about paying off a trustee. If we do a simple escrow we could violate the statute.
 - Jerry noted that there were different ways lot reservations were being done. How do we deal with a reservation drawn out of the hat with a time stamp? Glen asked if they should be disallowed. Canyon asked how the Commission felt about it. Garry would like to see the bulletin be a guideline. David said that 95% of buyers don't know about title insurance. How do they know they can choose a title agent? Builders often require them to go with certain agents or they won't sell them the lot. Jerry thought the bulletin should structure how lot reservations should be done. Glen agreed.
 - Glen will reword the bulletin and then send to Suzette to review. **Keep on the agenda.**
 - **Has "Good Funds" language been added to Dept.'s Bill?** / Mickey

Mickey said it had not.

- **New Business**
 - **Review Comment from Hearing of R592-13, Minimum Charges for Escrow Services.**
 - Will need to have a conference call to vote on the rule.
 - Walt Vandenberg said that the changes to this rule represented survival for them. This needed to happen sooner rather than later.
 - Lincoln Scoffield said title agencies would go out of business without it.
 - Brett Simpson said he supported the rule and fees. It was long overdue.
 - Glen made a motion to have a teleconference on Thursday, January 22 at 9am, to decide what to do next with the rule. Jerry seconded the motion and the vote was unanimous. Put this meeting on the website and email the Commission about how to be a part of conference call.
 - Jerry noted that the rule will not be enforced until 90 days after the effective date. He asked if they could start complying with it now. Mickey said yes.
- **Where meet in February?**
The next meeting in February will be at the Department of Alcoholic Beverage Control on 1625 South 900 West. Ask the receptionist for directions to the conference room.
- **Other Business from Committee Members**
 - Glen said he would send Perri an email about RESPA violating their own law. He also said the VA had no closing fee. Suzette noted that federal law supersedes state law but Canyon said neither is a federal law. California's law carves out the VA and FHA.
- **Adjourn 11:55am**
- **Next Meeting:** February 9, 2009, 9a.m., Alcoholic Beverage Control Building, 1625 S 900 E.

2009 Meetings

Mar 9	Apr 13
May 11	Jun 8
Jul 13	Aug 10
Sep 14	Oct 19
Nov 9	Dec 14